
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 459 Session of
2019

INTRODUCED BY COSTA, FONTANA, HUGHES, SCHWANK AND HAYWOOD,
MARCH 21, 2019

REFERRED TO LAW AND JUSTICE, MARCH 21, 2019

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in employees, providing for use of
3 force and deadly force model policy for law enforcement
4 agencies.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. The heading of Subchapter C of Chapter 21 of
8 Title 53 of the Pennsylvania Consolidated Statutes is amended to
9 read:

10 SUBCHAPTER C

11 [(Reserved)]

12 USE OF FORCE AND DEADLY FORCE MODEL POLICY

13 FOR LAW ENFORCEMENT AGENCIES

14 Section 2. Subchapter C of Chapter 21 of Title 53 is amended
15 by adding sections to read:

16 § 2141. Policy.

17 It is the policy of the Commonwealth to provide
18 municipalities, agencies and officers with clear guidelines and
19 training regarding the use of force and deadly force.

1 § 2142. Definitions.

2 The following words and phrases when used in this subchapter
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Agency." A police department of a municipality.

6 "Bodily injury." Impairment of physical condition or
7 substantial pain.

8 "Commission." The Municipal Police Officers' Education and
9 Training Commission.

10 "Commissioner." The Commissioner of Pennsylvania State
11 Police.

12 "Deadly force." Force which, under the circumstances in
13 which it is used, is readily capable of causing death or serious
14 bodily injury.

15 "Force."

16 (1) Efforts used by an officer that may result in bodily
17 injury, serious bodily injury or death when used to:

18 (i) Effectuate an arrest.

19 (ii) Overcome resistance or threatened resistance to
20 effectuate an arrest.

21 (iii) Protect the arresting officer or any other
22 person from injury or death.

23 (2) The term includes deadly force and other than deadly
24 force.

25 "Municipality." A county, city, borough, town or township.

26 "Officer." Any of the following:

27 (1) A full-time or part-time employee assigned to
28 criminal or traffic law enforcement duties at an agency.

29 (2) A deputy sheriff of a county of the second class.

30 (3) A security officer of a first class city housing

1 authority or a police officer of a second class city housing
2 authority.

3 (4) A county park police officer.

4 "Other than deadly force." Force used by an officer that
5 does not have the intentional purpose of causing, nor creates a
6 substantial risk of causing, death or serious bodily injury.

7 "Serious bodily injury." Bodily injury that creates a
8 substantial risk of death or which causes serious, permanent
9 disfigurement or protracted loss or impairment of the function
10 of a bodily member or organ.

11 "Weapon." A firearm, taser or other instrument capable of
12 inflicting serious bodily injury or death.

13 § 2143. Written policies required.

14 (a) General rule.--Each agency shall develop and implement a
15 written use of force policy governing the procedures under which
16 an officer should initiate, continue and terminate the use of
17 force. This policy may be the model policy endorsed by a
18 national or State organization or association that is consistent
19 with the requirements of this subchapter. The written policy
20 shall, at a minimum, incorporate the guidelines under this
21 section.

22 (b) Intent of guidelines.--The guidelines under this section
23 are solely intended to direct agencies in developing use of
24 force policies and outline the content of these policies. The
25 guidelines contained in this section are not intended to mandate
26 the actions of individual officers.

27 (c) Policy guidelines.--Each agency policy shall include the
28 following procedural elements:

29 (1) Decision-making criteria or principles for
30 initiation of force. These criteria or principles may

1 include:

2 (i) The severity of the crime at issue.

3 (ii) Whether the suspect poses an immediate threat
4 to the safety of the officer or others.

5 (iii) The potential for harm or immediate or
6 potential danger to others if the fleeing individual or
7 individuals escape.

8 (iv) Whether the suspect is actively resisting
9 arrest or attempting to evade arrest by flight.

10 (v) Safety factors that pose a risk to officers and
11 other persons.

12 (vi) Whether the suspect is in possession of a
13 weapon.

14 (2) Responsibilities of the officers.

15 (3) Responsibilities of the field supervisor.

16 (4) Decision-making criteria or principles for
17 termination of force. These criteria or principles may
18 include safety factors that pose a risk to officers and other
19 persons.

20 (5) Other relevant information that the officer
21 reasonably believes to be true at the time.

22 (6) Recordkeeping protocols for use of force incidents.

23 (d) Rules governing use of force.--Before carrying a weapon,
24 each officer shall receive training and instruction with regard
25 to the proper use of force and to the agency's policies and
26 statutes with regard to force. The training and instruction
27 shall continue on an annual basis. The following apply:

28 (1) Each officer shall carry and use only authorized
29 weapons unless circumstances exist which pose an immediate
30 threat to the safety of the officer or the public requiring

1 the use of a weapon or object that has not been authorized to
2 counter a threat.

3 (2) With agency approval, officers may modify, alter or
4 cause to be altered an authorized weapon in the officer's
5 possession or control.

6 (3) An officer should use discretion to determine
7 reasonable force options to bring a suspect under control. An
8 officer is not required to first attempt using types and
9 degrees of force that reasonably appear to be inadequate to
10 accomplish the intended objective.

11 (4) An officer may announce the intention to use
12 reasonable force.

13 (5) An officer should consider whether it is reasonably
14 prudent to use de-escalation and harm reduction techniques.

15 (e) Biennial certification.--Every other year, the
16 commission shall certify whether each agency has a use of force
17 policy in force. The commission shall provide the Pennsylvania
18 State Police with a list of those agencies that have or have not
19 notified or certified to the commission that the agency has a
20 use of force policy. The biennial certification may be
21 implemented simultaneously with other certifications conducted
22 by the commission.

23 (f) Policy availability.--A policy adopted under this
24 section shall be made available to the general public upon
25 request and shall be posted on a publicly accessible Internet
26 website maintained by the municipality.

27 (g) Limitations.--An agency policy must be consistent with
28 the requirements of 18 Pa.C.S. Ch. 5 (relating to general
29 principles of justification).

30 § 2144. Recordkeeping.

1 (a) General rule.--Each agency shall maintain records of all
2 incidents involving a use of force.

3 (b) Procedure.--The commissioner, in consultation with the
4 Pennsylvania Chiefs of Police Association and the Fraternal
5 Order of Police, shall develop a reporting mechanism each agency
6 must comply with and submit records of all use of force
7 incidents. The commissioner, with the approval of the
8 commission, shall determine the most efficient and least
9 burdensome procedure for which this reporting requirement shall
10 be implemented, administered and maintained. This procedure may
11 be incorporated at the discretion of the commissioner within
12 existing or forthcoming uniform crime reporting functions,
13 including a national incident-based reporting system.

14 (c) Content.--The report shall include the following
15 information:

16 (1) Reason for use of force.

17 (2) Injuries, if any, and to what individuals.

18 (3) Property damage, if any.

19 (4) Deaths, if any.

20 (5) Suspect information, including statute violations
21 and apprehension status of the suspect.

22 (6) Any other information deemed necessary by the
23 commissioner to evaluate and improve policies.

24 (d) Implementation.--The commissioner may implement the
25 reporting requirements to coincide with the timing of the
26 implementation of a national incident-based reporting system
27 within this Commonwealth.

28 § 2145. Pennsylvania State Police report.

29 (a) Annual report.--The Pennsylvania State Police shall
30 compile data sent by individual agencies on an annual basis. The

1 Pennsylvania State Police shall make an annual report based on
2 Statewide data to the Office of Attorney General, the Judiciary
3 Committee of the Senate, the Judiciary Committee of the House of
4 Representatives and the Law and Justice Committee of the Senate.

5 (b) Contents.--The Statewide report shall include the
6 following information:

7 (1) Statewide aggregations of information collected
8 under section 2144(c) (relating to recordkeeping).

9 (2) The total number and percentage of incidents
10 involving the use of force.

11 (3) The total number and percentage of incidents
12 involving the use of force resulting in bodily injury.

13 (4) The total number and percentage of incidents
14 involving the use of force resulting in serious bodily
15 injury.

16 (5) The total number and percentage of incidents
17 involving the use of force resulting in death.

18 (6) A list of agencies that have not notified or
19 certified to the commission that the agency has a policy as
20 required under section 2143 (relating to written policies
21 required).

22 (c) Submission of annual report.--The Pennsylvania State
23 Police shall submit the first annual report after the first full
24 calendar year of data collection.

25 Section 3. This act shall take effect in 60 days.